

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**Petition of BNE Energy Inc. for a  
Declaratory Ruling for the Location,  
Construction and Operation of a 4.8 MW  
Wind Renewable Generating Project on  
Winsted-Norfolk Road in Colebrook,  
Connecticut (“Wind Colebrook North”)**

**Petition No. 984**

**May 4, 2011**

**MOTION TO STRIKE SUPPLEMENTAL PRE-FILED TESTIMONY**

Petitioner BNE Energy Inc. (“BNE”) hereby moves to strike the supplemental pre-filed testimony of Michael Carboni, dated May 2, 2011, and Glenn Chalder, dated May 3, 2011. These supplemental testimonies are untimely and, as such, should be stricken from the record in this proceeding.

The schedule in this proceeding is clear and was established by the Council’s hearing schedule and subsequent Council notices. Consistent with the Council’s practice, the Council required that all testimony and exhibits be submitted by a second pre-filing deadline, April 19, 2011.

Mr. Carboni’s testimony claims that its late filing is due to the filing of additional materials by BNE on the first pre-filing deadline, March 25, 2011 and could not have been filed by the second pre-filing deadline of April 19, 2011. Mr. Carboni provides no explanation as to why it took him almost **six weeks** to respond. Again, the schedule in this proceeding was clear and has been established for months. Neither Fairwind nor Mr. Carboni provide any compelling reason why his testimony should be made part of the record at this late date. The record in this proceeding simply cannot be left open indefinitely. This testimony must be stricken from the record as untimely.

Mr. Chalder's testimony claims that its late filing is due to the fact that it is a response to questions asked by the Council during cross-examination in Petition 983 and also to "address additional testimony provided by Michael Libertine, dated April 25, 2011." Mr. Libertine filed rebuttal testimony in petition 983 on April 25, 2011. Mr. Libertine did not file any testimony in this proceeding, petition 984, on that date. Apparently Mr. Chalder seeks to excuse the late filing of his additional testimony in this proceeding by claiming that it is a response to Council cross and rebuttal testimony filed in an entirely different proceeding. Again, despite Fairwind's repeated protests to the contrary, these proceedings have not been consolidated. The Council should not allow testimony to be late filed in this proceeding on this baseless ground, essentially allowing Fairwind to complete yet another end-run around its ruling that the petitions will not be consolidated. Neither Fairwind nor Mr. Chalder provide any compelling reason why his testimony should be made part of the record at this late date. This testimony must be stricken from the record as untimely.

The submission of two additional pre-filed testimonies over two weeks *after* the second pre-filing deadline, in addition to the three additional pre-filed testimonies already submitted belatedly by Fairwind in this proceeding, is entirely inappropriate. Moreover, by allowing the Grouped parties to flaunt deadlines and submit untimely testimony, the Council runs the risk of unfairly prejudicing BNE's ability to properly pursue its petition.

WHEREFORE, BNE requests that the supplemental pre-filed testimonies of Michael Carboni and Glenn Chalder be stricken from the record in this proceeding.

Respectfully Submitted,

BNE ENERGY INC.

By: /s/ Carrie Larson

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## CERTIFICATION

This is to certify that a copy of the foregoing has been mailed this date to all parties and intervenors of record.

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